

This Statutory Instrument has been made in part to correct errors in S.I. 2019/588, 2019/739, 2019/753 and 2019/848 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2019 No. 1312

EXITING THE EUROPEAN UNION

SEA FISHERIES

ANIMALS

**The Common Fisheries Policy and Animals (Amendment etc.)
(EU Exit) Regulations 2019**

Approved by both Houses of Parliament

Made - - - - at 2.00 p.m. on 7th October 2019

Laid before Parliament at 4.00 p.m. on 7th October 2019

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(a), makes the following Regulations.

The Secretary of State is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

PART 1

INTRODUCTORY

Citation and commencement

1.—(1) These Regulations may be cited as the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019.

(2) Subject to paragraph (3), these Regulations come into force immediately before exit day.

(3) Regulations 2, 5, 6 and 7 and the Schedule to these Regulations come into force on exit day.

Revocations

2. The legislation listed in the Schedule to these Regulations is revoked.

PART 2

THE TECHNICAL CONSERVATION REGULATIONS

CHAPTER 1

UPDATING EU EXIT REGULATIONS IN CONSEQUENCE OF THE 2019 TECHNICAL CONSERVATION REGULATION

The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019

3.—(1) The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In Part 3 (amendment of the Control Regulations), in regulation 4 (Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy)—

- (a) omit paragraphs (51) to (53); and
- (b) for paragraph (54) substitute—

“(54) In Article 54b(3)—

 - (a) omit “which are certified by the competent authorities of the flag Member States”;
 - (b) for “competent fisheries authorities of the flag Member State” substitute “competent authorities of a fisheries administration”; and
 - (c) for “the flag Member State of the vessels shall” substitute “a fisheries administration must”.”.

The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019

4.—(1) The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In Part 3 (amendment of the Technical Conservation Regulations)—

- (a) omit regulation 11 (Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms);
- (b) omit regulation 19 (Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries);
- (c) omit regulation 20 (Council Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources); and
- (d) omit regulation 21 (Council Regulation (EC) No 2549/2000 establishing additional technical measures for the recovery of the stock of cod in the Irish sea (ICES Division VIIa)).

(3) In Part 5 (transfer of legislative functions)—

- (a) in Chapter 2 (amendment of the Control Regulation), in regulation 27 omit paragraphs (14) and (15); and
- (b) omit Chapter 9 (amendment of the Technical Conservation Regulation).

(a) S.I. 2019/739.

(b) S.I. 2019/753.

- (4) Omit Part 7 (amendment of subordinate legislation).
- (5) In the Schedule (revocations) omit sub-paragraph (d).

CHAPTER 2

AMENDMENT OF THE 2019 TECHNICAL CONSERVATION REGULATION

Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures

5.—(1) Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures is amended as follows.

- (2) In Article 2—
 - (a) in paragraph 1—
 - (i) for “Union” in each place it occurs, substitute “United Kingdom”, and
 - (ii) omit the words from “and nationals” to “the flag State.”; and
 - (b) in paragraph 2—
 - (i) for “the Commission is empowered to adopt delegated acts” substitute “regulations made”,
 - (ii) for “and in accordance with Article 29 in order to” substitute “may”, and
 - (iii) for “V to X” substitute “5, 6 and 7”.
- (3) In Article 3—
 - (a) in paragraph 1—
 - (i) for “As tools to support the implementation of the CFP, technical” substitute “Technical”, and
 - (ii) omit “of the CFP” in the second place it occurs; and
 - (b) in paragraph 2(d)—
 - (i) for “Directives 92/43/EEC, 2000/60/EC, 2008/56/EC” substitute “the Marine Strategy Regulations 2010(a) and any enactment giving effect to Directives 92/43/EEC or 2000/60/EC”, and
 - (ii) omit “in line with Article 9(1) of Directive 2008/56/EC, and with Directive 2009/147/EC”.
- (4) In Article 4—
 - (a) in paragraph 1(b)—
 - (i) for “Union legislation” substitute “legislation applicable in any part of the United Kingdom”, and
 - (ii) for “Union” in the second place it occurs, substitute “United Kingdom”; and
 - (b) omit paragraph 2.
- (5) In Article 5—
 - (a) in point (a)—
 - (i) for “Union” substitute “United Kingdom”, and
 - (ii) for “divisions 2a and 3a” substitute “division 2a”;
 - (b) omit point (b);

(a) S.I. 2010/1627; relevant amending instruments are S.I. 2018/287 and 2018/1399.

- (c) in point (c) for “Union” substitute “United Kingdom”;
 - (d) in point (d) for the words from “ICES” to the end, substitute “United Kingdom waters of ICES division 8d”; and
 - (e) omit points (e), (f), (g) and (i).
- (6) In Article 6—
- (a) in point (3) for “delegated acts adopted” substitute “regulations made”;
 - (b) in point (4) for “by Article 3(5) of Directive 2008/56/EC” substitute “in the Marine Strategy Regulations 2010”;
 - (c) in point (7) omit “under Directive 2008/56/EC”;
 - (d) in point (8) omit “under Directive 2008/56/EC”;
 - (e) omit point (10);
 - (f) in point (48) omit “CFP”; and
 - (g) at the end of point (50) for the full stop substitute a semicolon and after point (50) insert—

“(51) ‘enactment’ has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018(a).”.
- (7) In Article 7(2) for “Union” substitute “United Kingdom”.
- (8) In Article 8—
- (a) in paragraph 1—
 - (i) for “V to XI” substitute “5, 6, 7 and 12”, and
 - (ii) for “a delegated act adopted” substitute “regulations made”;
 - (b) in paragraph 2—
 - (i) omit point (b), and
 - (ii) in point (c) omit the words from “in all other” to “1967/2006 applies,”;
 - (c) in paragraph 3—
 - (i) for “The Commission is empowered to adopt delegated acts” substitute “Regulations made”, and
 - (ii) for “and in accordance with Article 29 derogating” substitute “may provide for derogations”;
 - (d) for paragraph 5 substitute—

“5. A fisheries administration may make regulations establishing detailed rules for the specification of codends and devices referred to in paragraph 4. Regulations made under this paragraph must be based on the best available scientific and technical advice and may, in particular, define the matters specified in paragraph 8.

6. Subject to paragraph 7, the Secretary of State may make regulations establishing detailed rules for the specification of codends and devices referred to in paragraph 4. Regulations made under this paragraph must be based on the best available scientific and technical advice and may, in particular, define the matters specified in paragraph 8.

7. Where the exercise of the power to make regulations under paragraph 5 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 6 the Secretary of State must obtain the consent of—

 - (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;

(a) 2018 c. 16.

- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

8. The matters referred to in paragraphs 5 and 6 are—

- (a) restrictions on twine thickness;
- (b) restrictions on the circumference of codends;
- (c) restrictions on the use of netting materials;
- (d) structure and attachment of codends;
- (e) permitted devices to reduce wear and tear; and
- (f) permitted devices to limit the escape of catches.

9. Before making any regulations under this Article, a fisheries administration must consult—

- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the fisheries administration may consider appropriate.”.

(9) In Article 9—

- (a) omit paragraphs 3 and 5; and
- (b) in paragraph 7 omit point (b).

(10) In Article 10—

- (a) in paragraph 1 for “except when derogations are granted under Article 16 of that Directive” substitute “unless authorised under the terms of a licence granted under regulation 55 of the Conservation of Offshore Marine Habitats and Species Regulations 2017(a), regulation 55 of the Conservation of Habitats and Species Regulations 2017(b), regulation 39 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(c) or regulation 44 of the Conservation (Natural Habitats, &c.) Regulations 1994(d)”;
- (b) in paragraph 2—
 - (i) for “Union” in the first place it occurs, substitute “United Kingdom”, and
 - (ii) for “Union legal acts” substitute “relevant retained direct EU legislation”;
- (c) in paragraph 3 for “applicable Union law” substitute “relevant retained direct EU legislation”;
- (d) in paragraph 4 for “The Commission is empowered to adopt delegated acts in accordance with Article 29 to” substitute “Subject to paragraph 4A, the Secretary of State may by regulations”; and
- (e) after paragraph 4 insert—

“4A. Where, in the circumstances described in paragraph 4B, the exercise of the power to make regulations under paragraph 4 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under that power the Secretary of State must obtain the consent of—

(a) S.I. 2017/1013, amended by S.I. 2019/579.

(b) S.I. 2017/1012, amended by S.I. 2019/579; there are other amending instruments but none is relevant.

(c) S.R. 1995 No. 380.

(d) S.I. 1994/2716; relevant amending instruments are S.I. 2010/490 and S.S.I. 2004/475, 2007/80 and 2011/155.

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 4B;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 4B;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 4B.

4B. The circumstances referred to in paragraph 4A are circumstances where the power in paragraph 4 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”.

(11) In Article 11—

- (a) in paragraph 3—
 - (i) omit “national”,
 - (ii) after “authorities” insert “of the fisheries administration”, and
 - (iii) for “applicable Union law” substitute “relevant retained direct EU legislation”;
- (b) in paragraph 4—
 - (i) for “Member State” substitute “fisheries administration”,
 - (ii) for “, for vessels flying its flag,” substitute “by regulations”, and
 - (iii) for “Union law” substitute “relevant retained direct EU legislation”;
- (c) in paragraph 5 omit the words from “The Member States shall” to the end.

(12) In Article 12—

- (a) for paragraph 2 substitute—

“2. Where the best available scientific advice recommends an amendment of the list of areas set out in Annex 2 the Secretary of State may, subject to paragraph 2A, by regulations amend Annex 2 accordingly. When making regulations under this paragraph the Secretary of State must have regard to the need to mitigate the negative effects of the displacement of fishing activity to other sensitive areas.

2A. Where, in the circumstances described in paragraph 2B, the exercise of the power to make regulations under paragraph 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under that power the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 2B;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 2B;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 2B.

2B. The circumstances referred to in paragraph 2A are circumstances where the power in paragraph 2 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.

2C. Before making any regulations under paragraph 2, the Secretary of State must consult—

- (a) such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by the regulations;
 - (b) such other bodies or persons as the Secretary of State may consider appropriate.”; and
 - (b) omit paragraph 3.
- (13) In Article 13(1)—
- (a) for “V to X” substitute “5, 6, 7 and 12”; and
 - (b) in point (b) omit “pursuant to Article 8 of Regulation (EU) No 1380/2013”.
- (14) In Article 14—
- (a) in paragraph 1—
 - (i) for “Member States” substitute “a fisheries administration”, and
 - (ii) omit the words from “take account” to “Advisory Councils and”; and
 - (b) in paragraph 2—
 - (i) for “Member States” substitute “fisheries administration”, and
 - (ii) omit “in accordance with Article 19 of Regulation (EU) No 1380/2013”.
- (15) In Article 15—
- (a) in paragraph 1 omit points (d) to (g);
 - (b) in paragraph 2—
 - (i) for the words from “the Commission is empowered” to “1380/2013 in order to” substitute “a fisheries administration may by regulations”, and
 - (ii) for the final sentence substitute “A fisheries administration must obtain scientific evidence to support any measures contained in regulations made under this paragraph.”;
 - (c) after paragraph 2 insert—

“2A. In order to take into account regional specificities of the relevant fisheries, the Secretary of State may, subject to paragraph 2B, by regulations amend, supplement, repeal or derogate from the technical measures set out in the Annexes referred to in paragraph 1 of this Article, including implementing the landing obligation in the context of Article 15(5) and (6) of Regulation (EU) No 1380/2013. The Secretary of State must obtain scientific evidence to support any measures contained in regulations made under this paragraph.

2B. Where the exercise of the power to make regulations under paragraph 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making regulations under the power in paragraph 2A the Secretary of State must obtain the consent of—

 - (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
 - (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
 - (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

2C. Before making any regulations under this Article, a fisheries administration must consult—

 - (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
 - (b) such other bodies or persons as the fisheries administration may consider appropriate.”;
 - (d) omit paragraph 3;

- (e) in paragraph 4(b) for “Union acts adopted in the area of the CFP” substitute “retained direct EU legislation”;
 - (f) in paragraph 5 for “V to XI” substitute “5, 6, 7 and 12”; and
 - (g) omit paragraphs 6 and 7.
- (16) For Article 16 substitute—

“Article 16

Species and size selectivity of fishing gear

Before making regulations under Article 15(2) which contain measures in relation to size-selective or species-selective characteristics of gear, a fisheries administration must obtain scientific evidence demonstrating that the measures result in selectivity characteristics for specific species or combination of species which are at least equivalent to the selectivity characteristics of the gear set out in Part B of Annexes 5, 6 and 7.”.

- (17) In Article 17—
- (a) for the words from “A joint recommendation” to “Annex XI” substitute “When making regulations under Article 15(2) in relation to Part C of Annexes 5, 6 and 7”; and
 - (b) for “shall include” substitute “, a fisheries administration must have regard to”.
- (18) In Article 18—
- (a) for “A joint recommendation submitted for the purpose of adopting the measures referred to in” substitute “Regulations made under”; and
 - (b) for “V to X” substitute “5, 6 and 7”.
- (19) In Article 19—
- (a) in paragraph 1 for the words from “A joint recommendation” to “Article 15(2)” substitute “Regulations made under Article 15”;
 - (b) in paragraph 2 for the words from “A joint recommendation” to “Article 15(2)” substitute “Regulations made under Article 15”; and
 - (c) after paragraph 2 insert—
- “3. Regulations made under Article 15 in relation to the matters specified in paragraphs 1 or 2 may amend or repeal retained EU law adopted under Article 51(3) of Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy.”.
- (20) In Article 20 for paragraph 1 substitute—
- “1. Before making regulations under Article 15(2) which contain measures in relation to the use of innovative fishing gear, a fisheries administration must carry out an assessment based on appropriate data of the likely impacts of using such gear on the targeted species and on sensitive species and habitats.”.
- (21) In Article 21—
- (a) for “A joint recommendation submitted for the purpose of adopting the measures referred to in” substitute “Regulations made under”;
 - (b) in point (a) for “develop” substitute “include measures relating to”; and
 - (c) omit point (c).
- (22) In Article 22(1)—
- (a) for the words from “When Member States” to “referred to in” substitute “Technical measures in discard plans made under”; and
 - (b) for “, those recommendations” substitute “or in regulations made under Article 15(2) of this Regulation”.
- (23) In Article 23—

- (a) in paragraph 1 for the words from “The Commission” to “supplementing” substitute “A fisheries administration may, by regulations, supplement”;
- (b) in paragraph 2—
 - (i) for “V to XI” substitute “5, 6 and 7”, and
 - (ii) for “the vessels in that metier per Member State” substitute “United Kingdom fishing vessels fishing in the relevant fishery”;
- (c) in paragraph 3—
 - (i) omit the words from “Where Member States” to “assessment public.”,
 - (ii) for “the Member States shall submit” substitute “the fisheries administration must publish”, and
 - (iii) omit “to the Commission”;
- (d) for paragraph 4 substitute—

“4. Where the report referred to in paragraph 3 concludes that the contribution of the new gear or practice is beneficial to the achievement of the objective in paragraph 2, a fisheries administration may by regulations allow for the generalised use of that gear or practice.

4A. Subject to paragraph 4B, where the report referred to in paragraph 3 concludes that the contribution of the new gear or practice is beneficial to the achievement of the objective in paragraph 2, the Secretary of State may by regulations allow for the generalised use of that gear or practice.

4B. Where the exercise of the power to make regulations under paragraph 4 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 4A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.”; and
- (e) for paragraph 5 substitute—

“5. A fisheries administration may by regulations supplement this Regulation by defining the technical specifications of a system for full documentation of catches and discards referred to in paragraph 1 of this Article.

6. Subject to paragraph 7, the Secretary of State may by regulations supplement this Regulation by defining the technical specifications of a system for full documentation of catches and discards referred to in paragraph 1 of this Article.

7. Where the exercise of the power to make regulations under paragraph 5 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 6 the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;

- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

8. Before making any regulations under this Article, a fisheries administration must consult—

- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the fisheries administration may consider appropriate.”.

(24) For Article 24 substitute—

“Article 24

Implementing Regulations

1. A fisheries administration may make regulations for the purposes specified in paragraph 4.

2. Subject to paragraph 3, the Secretary of State may make regulations for the purposes specified in paragraph 4.

3. Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 2 the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

4. The purposes referred to in paragraphs 1 and 2 are establishing—

- (a) the specifications of the selection devices attached to the gear set out in Part B of Annexes 5, 6, 7 and 12;
- (b) detailed rules on the specifications of the fishing gear described in Part D of Annex 5 relating to restrictions on gear construction and associated control and monitoring measures;
- (c) detailed rules on the control and monitoring measures relating to the use of the gear referred to in point 6 of Part C of Annex 5, point 4 of Part C of Annex 7 and point 4 of Part C of Annex 12;
- (d) detailed rules on the control and monitoring measures relating to the closed or restricted areas described in point 2 of Part C of Annex 5 and points 6 and 7 of Part C of Annex 6;
- (e) detailed rules on the signal and implementation characteristics of acoustic deterrent devices as referred to in Part A of Annex 13;
- (f) detailed rules on the design and deployment of bird scaring lines and weighted lines as referred to in Part B of Annex 13;
- (g) detailed rules on the specifications for the turtle excluder device referred to in Part C of Annex 13.”.

(25) In Article 25—

(a) in paragraph 1—

- (i) in point (a) for “the flag Member State” substitute “a fisheries administration”,
- (ii) for point (b) substitute—

“(b) a fisheries administration must be informed at least two weeks in advance of the intention to conduct such fishing operations detailing the vessels involved and the scientific investigations to be undertaken;”

(iii) in point (d)—

(aa) for “the coastal Member State to the flag Member State” substitute “a fisheries administration”, and

(bb) for “the coastal Member State” in the second place it occurs, substitute “a fisheries administration”,

(iv) in point (e)—

(aa) for the words from “the Commission” to “where appropriate, the advice of STECF” substitute “a fisheries administration must seek, where appropriate, scientific advice”, and

(bb) for “advice of STECF, the concerned Member State shall” substitute “scientific advice, the fisheries administration must”, and

(v) in point (f) omit “or STECF”; and

(b) in paragraph 2(a) for “IV to X” substitute “4 to 7 and 12”.

(26) In Article 26—

(a) in paragraph 1 for “the Member State or Member States” substitute “a fisheries administration”; and

(b) omit paragraph 2.

(27) In Article 27—

(a) in paragraph 1 for “V to VIII” substitute “5, 6, 7 and 12”;

(b) in paragraph 5—

(i) for “Member States” substitute “A fisheries administration”,

(ii) omit “flying their flag”,

(iii) for “V to XI” substitute “5, 6, 7 and 12”, and

(iv) for “V to VIII” substitute “5, 6, 7 and 12”; and

(c) in paragraph 7—

(i) for “The Commission is empowered to adopt delegated acts” substitute “Regulations made”,

(ii) for “and in accordance with Article 29 in order to” substitute “may”,

(iii) for “V to X and Part A of Annex XI” substitute “5, 6, 7 and 12”, and

(iv) omit the words from “For this Purpose” to the end.

(28) For Article 29 substitute—

“Article 29

Regulations

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.

2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(a).

3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(b).

(a) 2010 asp 10.

(b) S.I. 1979/1573 (N.I. 12).

4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(a) as if they were a statutory instrument within the meaning of that Act.

8. Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018(b)));
- (b) make different provision for different purposes.”.

(29) Omit Articles 30 to 38.

(30) Omit Article 40.

(31) In Annex 1—

- (a) in point (a) for “all Union” substitute “United Kingdom”;
- (b) in point (c)—
 - (i) for “Union” in both places it occurs, substitute “United Kingdom”, and
 - (ii) for “1, 5, 6, 7, 8, 12 and 14” substitute “5, 6, 7 and 8”;
- (c) in point (d) for “all Union” substitute “United Kingdom”;
- (d) in point (e) for “all Union” substitute “United Kingdom”;
- (e) in point (f) for “all Union” substitute “United Kingdom”;
- (f) in point (g)—
 - (i) for “Union” substitute “United Kingdom”,
 - (ii) omit “7b, 7c,”, and
 - (iii) for “, 7h and 7k” substitute “and 7h”;
- (g) in point (h)—
 - (i) for “Union” substitute “United Kingdom”, and
 - (ii) for “6–10” substitute “6, 7 and 8”;
- (h) in point (i)—
 - (i) for “Union” substitute “United Kingdom”, and
 - (ii) for “1–10 and 12” substitute “5–8”;
- (i) in point (j) for “all Union” substitute “United Kingdom”;
- (j) in point (k)—
 - (i) for “the waters” substitute “United Kingdom waters”,
 - (ii) omit “Member States”, and

(a) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(b) 2018 c. 16.

- (iii) for “1, 2 and 4–10 (Union waters)” substitute “2 and 4–8”;
 - (k) in point (l)—
 - (i) after “in” insert “United Kingdom waters of”, and
 - (ii) omit “(Union waters)”;
 - (l) in point (m) for “Union” substitute “United Kingdom”;
 - (m) omit point (n); and
 - (n) omit point (o).
- (32) In Annex 2—
- (a) in Part A (North Western Waters) omit points 1 and 2; and
 - (b) omit Part B (South Western Waters).
- (33) In Annex 4—
- (a) in point 3—
 - (i) omit “except Skagerrak or Kattegat”, and
 - (ii) after “edge of the carapace” insert “(as illustrated in Figure 3 by line “(a)”)”; and
 - (b) omit points 4 and 10.
- (34) In Annex 5—
- (a) in Part A (minimum conservation reference sizes), in table note 1 for “Union” substitute “United Kingdom”;
 - (b) in Part B (mesh sizes)—
 - (i) omit point 1.1,
 - (ii) in point 1.2—
 - (aa) omit “and notwithstanding point 1.1.”,
 - (bb) omit “, Skagerrak and Kattegat”, and
 - (cc) in point (ii) for the words from “assessed” to “Commission” substitute “authorised by a fisheries administration following scientific assessment and approval”;
 - (iii) in the table following point 1—
 - (aa) omit the row for the entry “At least 70 mm (square mesh) or 90 mm (diamond mesh)”;
 - (bb) omit the row for the entry “At least 35 mm”, and
 - (cc) in the entry for “At least 32 mm”, in the second column omit “except Skagerrak and Kattegat”, and
 - (iv) in point 2.2 omit “, Skagerrak and Kattegat”;
 - (c) in Part C (closed or restricted areas)—
 - (i) omit point 2,
 - (ii) in point 4 omit the third indent,
 - (iii) omit point 5,
 - (iv) in point 6 for “divisions 3a and 4a” substitute “division 4a”, and
 - (v) in point 6.2—
 - (aa) omit “Union”,
 - (bb) omit the words from “In situations” to “1224/2009.”, and
 - (cc) for “the vessels of any Member State” substitute “United Kingdom fishing vessels”; and
 - (d) in Part D (the use of electric pulse trawls in ICES divisions 4b and 4c)—
 - (i) in point 1 for “Union” substitute “United Kingdom”,

- (ii) in point 2—
 - (aa) for “fishing” substitute “a fisheries administration may authorise United Kingdom fishing vessels to fish”,
 - (bb) omit “shall continue to be allowed”,
 - (cc) after “conditions set out in this” insert “Part”,
 - (dd) for “accordance with point (b) of Article 24(1) of this Regulation” substitute “regulations made under Article 24 of this Regulation for the purpose specified in paragraph 4(b) of that Article”,
 - (ee) after “monitoring measures in place” insert “in United Kingdom waters of the area”, and
 - (ff) in point (a), for “the beam trawler fleet per Member State” substitute “all the beam trawlers in the United Kingdom fleet”, and
 - (iii) omit points 4 and 5.
- (35) In Annex 6—
- (a) in Part A (minimum conservation reference sizes) in table note 3 for “Union” substitute “United Kingdom”;
 - (b) in Part B (mesh sizes)—
 - (i) in point 1.1 for “7b–7k” substitute “7d–7j”,
 - (ii) in point 1.2(ii)—
 - (aa) for “assessed by STECF upon request of one or more Member States and approved by the Commission” substitute “authorised by a fisheries administration following scientific assessment and approval”, and
 - (bb) for “7b” substitute “7d”, and
 - (iii) in the table following point 1, in the third entry for “At least 80 mm”, in the corresponding entry in the second column omit “7b”;
 - (c) in Part C (closed or restricted areas)—
 - (i) in point 2.1 for the comma after “31E4” substitute “and United Kingdom waters of”,
 - (ii) in point 3.1 after “incorporating hooks” insert “in United Kingdom waters”,
 - (iii) in point 3.2 for “assessed by STECF” substitute “approved by a fisheries administration following scientific assessment and approval”,
 - (iv) in point 4 after “shall be prohibited in” insert “United Kingdom waters of”,
 - (v) omit point 5,
 - (vi) omit point 6.3,
 - (vii) in point 7.1 after “which have been caught,” insert “in United Kingdom waters”,
 - (viii) in point 8 omit “and Ireland”,
 - (ix) in point 8.2 omit “and Ireland”,
 - (x) in point 9—
 - (aa) omit “7b, 7c,”, and
 - (bb) for “, 7j, and 7k” substitute “and 7j”, and
 - (xi) in point 9.2—
 - (aa) omit “Union”,
 - (bb) omit the words from “In situations” to “1224/2009.”, and
 - (cc) for “the vessels of any Member State” substitute “United Kingdom fishing vessels”.
- (36) In Annex 7—
- (a) in Part A (minimum conservation references sizes)—

- (i) omit table notes 1, 2 and 3,
 - (ii) in table note 4—
 - (aa) for “Union” substitute “United Kingdom”, and
 - (bb) for “sub-areas 8 and 9” substitute “sub-area 8”;
 - (b) in Part B (mesh sizes)—
 - (i) in point 1.1 omit the words from “, or at least” to the end,
 - (ii) in point 1.2(ii)—
 - (aa) for the words from “assessed by STECF” to “Commission” substitute “approved by a fisheries administration following scientific assessment and approval”, and
 - (bb) omit the words from “, or 55 mm” to the end,
 - (iii) in the table following point 1—
 - (aa) in the first entry for “At least 55mm”, in the corresponding entry in the second column omit “excluding ICES division 9a east of longitude 7°23’48”W”,
 - (bb) omit the second entry for “At least 55mm”, and
 - (cc) in table note 2, for “divisions 8a, 8b, 8d and 8e” substitute “division 8d”,
 - (iv) in point 2.1 omit the words from “, or at least” to the end, and
 - (v) in the table following point 2, in the entry for “At least 80 mm”, in the second column omit “except ICES division 8c and ICES sub-area 9”;
 - (c) in Part C (closed or restricted areas)—
 - (i) omit points 1, 2 and 3,
 - (ii) in point 4 for “ICES sub-areas 8, 9, 10 and 12 east of 27°W” substitute “United Kingdom waters of ICES division 8d”,
 - (iii) in point 4.1—
 - (aa) in the first indent, for “80 mm in ICES division 8c and ICES sub-area 9 and 100 mm in all remaining areas” substitute “100mm in United Kingdom waters of ICES division 8d”, and
 - (bb) omit the third indent,
 - (iv) in point 4.2—
 - (aa) omit “Union”,
 - (bb) omit the words from “In situations” to “1224/2009.”, and
 - (cc) for “the vessels of any Member State” substitute “United Kingdom fishing vessels”, and
 - (v) omit point 4.3.
- (37) Omit Annexes 8 to 11.
- (38) In Annex 12—
- (a) in Part C (closed or restricted areas)—
 - (i) in point 1.1 omit “and Union waters of ICES sub-areas 12 and 14”,
 - (ii) in point 1.2—
 - (aa) for “a Union legal act” substitute “regulations made by a fisheries administration”,
 - (bb) for “Union vessels” substitute “United Kingdom vessels”,
 - (cc) for “their respective Member State” substitute “a fisheries administration”, and
 - (dd) omit “to the Commission”,

- (iii) in point 2.5 for “advice from STECF, Member States shall” substitute “scientific advice, a fisheries administration must”,
 - (iv) in point 3.6—
 - (aa) for “Member States shall” substitute “A fisheries administration must”,
 - (bb) for “flying their flag” substitute “within its fleet”, and
 - (cc) omit “by the competent authorities in the Member States”, and
 - (v) for point 3.7 substitute—

“3.7. A fisheries administration must prohibit directed fishery for redfish in the waters referred to in point 3.1 from the date that it is notified by the NEAFC Secretariat that the total allowable catch has been fully utilised.”; and
 - (b) in Part D (closed areas for the protection of sensitive habitats), in point 2 for “its flag State” substitute “a fisheries administration”.
- (39) In Annex 13—
- (a) in point 2 for “Member States shall” substitute “A fisheries administration must”;
 - (b) for point 3 substitute—

“3. As a result of scientific evidence, validated by ICES or a similar independent scientific body recognised at international level, of negative impacts of fishing gear on sensitive species, a fisheries administration may, by regulations made under Article 15, provide for additional mitigation measures for the reduction of incidental catches of the concerned species or in a concerned area.”;
 - (c) in point 4 for “Member States shall” substitute “A fisheries administration must”; and
 - (d) in Part A (cetaceans)—
 - (i) in the table following point 1.1—
 - (aa) omit the first two rows, and
 - (bb) in the third row omit “and ICES division 3a (only from 1 August to 31 October)”;
 - (ii) in point 1.2 for “Member State or Member States” substitute “fisheries administration”;
 - (iii) in point 1.3 for “Member States shall” substitute “A fisheries administration must”;
 - (iv) in point 2.1 omit “flying their flag and”;
 - (v) in the table following point 2.1—
 - (aa) omit the second row (Mediterranean Sea (of the east of line 5° 36' west),
 - (bb) in the first column of the third row omit “7b, 8a, 8b, 8c, and 9a”;
 - (cc) in the first column of the fourth row omit “, with the exception of ICES divisions 7c and 7k”;
 - (dd) for the wording in the first column of the fifth row substitute “ICES sub-area 4”;
 - (ee) in the first column of the sixth row omit “and 9”, and
 - (ff) omit the final row, and
 - (vi) in point 2.2 for “Member State or Member States” substitute “fisheries administration”;
 - (e) in Part B (seabirds), for “Member States shall use” substitute “a fisheries administration must require the use of”;
 - (f) omit Part C (marine turtles).
- (40) Omit Annex 14.

PART 3
THE MULTIANNUAL PLANS
CHAPTER 1

AMENDMENT OF THE WESTERN WATERS MULTIANNUAL PLAN

Regulation (EU) 2019/472 of the European Parliament and of the Council establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks

6.—(1) Regulation (EU) 2019/472 of the European Parliament and of the Council establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks is amended as follows.

(2) In Article 1—

(a) in the second subparagraph of paragraph 1—

(i) omit “Union or”,

(ii) for “Commission may adopt delegated acts in accordance with Article 18 amending” substitute “Secretary of State may, subject to paragraph 2A, by regulations amend”, and

(iii) omit the final sentence;

(b) in paragraph 2—

(i) for “Commission” in the first place it occurs, substitute “Secretary of State”, and

(ii) for “Commission may submit a proposal for the amendment of that list” substitute “Secretary of State may, subject to paragraph 2A, by regulations amend that list”;

(c) after paragraph 2 insert—

“2A. Where, in the circumstances described in paragraph 2B, the exercise of the power to make regulations under paragraph 1 or 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under either of those powers the Secretary of State must obtain the consent of—

(a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 2B;

(b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 2B;

(c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 2B.

2B. The circumstances referred to in paragraph 2A are circumstances where the power in paragraph 1 or, as the case may be, the power in paragraph 2 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”.

(d) in paragraph 4 for “Union legal acts” substitute “enactments”; and

(e) in paragraph 5 for “Union” substitute “United Kingdom”.

(3) In Article 2—

(a) in point (1)—

(i) for “Union” substitute “United Kingdom”, and

(ii) omit the words from “and the South” to the end;

(b) in point (2) omit “Union or”;

- (c) in point (8) omit “Union or”;
- (d) in point (9) omit “Union or”; and
- (e) after point (9) insert—

“(10) ‘enactment’ has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018(a).”.

(4) In Article 3—

- (a) in paragraph 1 omit “of the common fisheries policy”;
- (b) in paragraph 3—
 - (i) omit “Union”, and
 - (ii) for “set out in Article 1(1) of Directive 2008/56/EC” substitute “referred to in regulation 4(1) of the Marine Strategy Regulations 2010(b)”;
- (c) in paragraph 4(c) after “objectives set out in” insert “the provisions of any enactment specifically giving effect to the objectives set out in”; and
- (d) after paragraph 4 insert—

“4A. For the purposes of paragraph 4(b), in Annex 1 to Directive 2008/56/EC descriptor 9 is to be read as if the reference to “Community legislation” were a reference to “retained EU law”.”.

(5) In Article 4 for paragraphs 2 and 3 substitute—

“2. A fisheries administration must request from ICES, or a similar independent scientific body recognised at international level, the ranges of F_{MSY} based on the plan.

3. When fishing opportunities are determined for a stock they must be established in the lower range of F_{MSY} available at that time for that stock.”.

(6) Omit Article 6.

(7) In Article 7 for the words before point (a) substitute—

“A fisheries administration must request from ICES, or a similar independent scientific body recognised at international level, the following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) based on the plan—”.

(8) In Article 8(3) omit point (a).

(9) In Article 9—

- (a) for paragraph 1 substitute—

“1. A fisheries administration may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

1A. Subject to paragraph 1B, the Secretary of State may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

1B. Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;

(a) 2018 c. 16.

(b) S.I. 2010/1627; relevant amending instruments are S.I. 2018/287 and 2018/1399.

- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
 - (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.
- 1C. The technical measures referred to in paragraphs 1 and 1A are—
- (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
 - (b) specifications of modifications or additional devices to the fishing gears, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
 - (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and
 - (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.
- 1D. Before making any regulations under this Article, a fisheries administration must consult—
- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
 - (b) such other bodies or persons as the fisheries administration may consider appropriate.”;
- and
- (b) in paragraph 2 for “The measures referred to in paragraph 1 of” substitute “Regulations made under”.
- (10) In Article 10—
- (a) for paragraph 1 substitute—
 - “1. When a fisheries administration distributes fishing opportunities for use by fishing vessels it must take account of the likely catch composition of fishing vessels participating in mixed fisheries.”; and
 - (b) omit paragraph 2.
- (11) In Article 11—
- (a) in paragraph 1 for “the Council” substitute “any person determining fishing opportunities”;
 - (b) in paragraph 2 for “the Council” substitute “any person determining fishing opportunities”; and
 - (c) in paragraph 3 for “Member States shall” substitute “a fisheries administration must”.
- (12) In Article 12(2) for “When fixing fishing opportunities, the Council shall” substitute “Any person determining fishing opportunities must”.
- (13) In Article 13—
- (a) in the heading for “Union” substitute “United Kingdom”;
 - (b) in paragraph 1 for the words from “the Commission” to “Article 18 of Regulation (EU) No 1380/2013” substitute “a fisheries administration may make regulations”; and
 - (c) in paragraph 2 for “the Council sets limits” substitute “limits are set”.
- (14) In Article 14—
- (a) in paragraph 1—
 - (i) for “each Member State shall” substitute “a fisheries administration must”,

- (ii) for “flying its flag and” substitute “in its fleet”, and
 - (iii) for “Member States” substitute “a fisheries administration”;
- (b) omit paragraph 2; and
- (c) in paragraph 3—
 - (i) for “Each Member State shall” substitute “A fisheries administration must”, and
 - (ii) omit “to the Commission and the other Member States”.
- (15) In Article 15—
 - (a) in the heading for “Union” substitute “United Kingdom”;
 - (b) in paragraph 1—
 - (i) for “the Union shall” in both places it occurs, substitute “a fisheries administration must”, and
 - (ii) for “Union operators” substitute “United Kingdom operators”; and
 - (c) in paragraph 2 for “the Union” substitute “a fisheries administration”.
- (16) Omit Chapter 10.
- (17) In the heading to Chapter 11 omit “Evaluation and”.
- (18) Omit Article 17.
- (19) For Article 18 substitute—

“Article 18

Regulations

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(a).
3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(b).
4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(c) as if they were a statutory instrument within the meaning of that Act.
8. Such regulations may—

(a) 2010 asp 10.
 (b) S.I. 1979/1573 (N.I. 12).
 (c) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018(a));
- (b) make different provision for different purposes.”.

(20) Omit Chapters 12 and 13.

(21) Omit Article 23.

CHAPTER 2

AMENDMENT OF THE NORTH SEA MULTIANNUAL PLAN

Regulation (EU) 2018/973 of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea

7.—(1) Regulation (EU) 2018/973 of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea is amended as follows.

(2) In Article 1—

- (a) in the second subparagraph of paragraph 1, for “Commission may adopt delegated acts in accordance with Article 16 amending” substitute “Secretary of State may, subject to paragraph 2A, by regulations amend”;
- (b) in paragraph 2—
 - (i) for “Commission” in the first place it occurs, substitute “Secretary of State”, and
 - (ii) for “Commission may submit a proposal for the amendment of that list” substitute “Secretary of State may, subject to paragraph 2A, by regulations amend that list”; and
- (c) after paragraph 2 insert—

“2A. Where, in the circumstances described in paragraph 2B, the exercise of the power to make regulations under paragraph 1 or 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under either of those powers the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 2B;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 2B;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 2B.

2B. The circumstances referred to in paragraph 2A are circumstances where the power in paragraph 1 or, as the case may be, the power in paragraph 2 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”.

(3) For Article 8 substitute—

(a) 2018 c. 16.

“Article 8

Specific conservation measures

1. Where paragraph 3 applies, a fisheries administration may make regulations in order to supplement this Regulation in relation to the rules mentioned in paragraph 5.

2. Where paragraph 3 applies, subject to paragraph 4, the Secretary of State may make regulations in order to supplement this Regulation in relation to the rules mentioned in paragraph 5.

3. This paragraph applies where scientific advice indicates that remedial action is required for the conservation of any of the demersal stocks referred to in Article 1(4) of this Regulation, or when the spawning stock biomass and, in the case of Norway lobster stocks, the abundance of any of the stocks covered by Article 1(1) for a given year are below $MSY_{B_{trigger}}$.

4. Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 2 the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

5. The rules referred to in paragraphs 1 and 2 are rules regarding—

- (a) characteristics of fishing gear, in particular mesh size, hook size, construction of the gear, twine thickness, size of the gear or the use of selectivity devices to ensure or improve selectivity;
- (b) use of the fishing gear, in particular immersion time, depth of gear deployment, to ensure or improve selectivity;
- (c) prohibition or limitation to fish in specific areas to protect spawning and juvenile fish, fish below the minimum conservation reference size or non-target fish species;
- (d) prohibition or limitation on fishing or the use of certain types of fishing gear during specific time periods, to protect spawning fish, fish below the minimum conservation reference size or non-target fish species;
- (e) minimum conservation reference sizes, to ensure the protection of juveniles of marine organisms;
- (f) other characteristics linked to selectivity.”.

(4) In Article 9—

- (a) for paragraph 1 substitute—

“1. A fisheries administration may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

1A. Subject to paragraph 1B, the Secretary of State may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

1B. Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No

1380/2013, before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

1C. The technical measures referred to in paragraphs 1 and 1A are—

- (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (b) specifications of modifications or additional devices to the fishing gears, to ensure or to improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities, in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and
- (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.

1D. Before making any regulations under this Article, a fisheries administration must consult—

- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the fisheries administration may consider appropriate.”;
- (b) in paragraph 2 for “The measures referred to in paragraph 1 of” substitute “Regulations made under”; and
- (c) omit paragraph 3.

(5) In Article 11—

- (a) in the heading omit “Union waters of”;
- (b) in paragraph 1 for the words from “the Commission” to “Article 18 of Regulation (EU) No 1380/2013” substitute “a fisheries administration may make regulations”; and
- (c) in paragraph 2 for “the Council sets limits” substitute “limits are set”.

(6) For Article 16 substitute—

“Article 16

Regulations

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.

2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(a).

(a) 2010 asp 10.

3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(a).
4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(b) as if they were a statutory instrument within the meaning of that Act.
8. Such regulations may—
 - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018(c));
 - (b) make different provision for different purposes.”.

PART 4

OTHER AMENDMENTS

The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019

8.—(1) The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019(d) are amended as follows.

(2) In Part 3 (amendment of the control Regulations)—

- (a) in regulation 4 (Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy) for paragraph (49) substitute—

“(49) In Article 49c omit the final sentence.”; and
- (b) in regulation 8 (Regulation (EU) 2017/2403 of the European Parliament and of the Council on the sustainable management of external fishing fleets)—
 - (i) in paragraph (4)(a) after “Control Regulation” insert “or an authorisation”,
 - (ii) in paragraph (18)(a) for “State” substitute “States”,
 - (iii) in paragraph (23)(a) for “State” substitute “States”,
 - (iv) in paragraph (27)(a) for “State” substitute “States”, and
 - (v) in paragraph (41)(a)(i) for “each” substitute “the first”.

(a) S.I. 1979/1573 (N.I. 12).

(b) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(c) 2018 c. 16.

(d) S.I. 2019/739.

(3) In Part 4 (amendment of the illegal, unreported and unregulated fishing Regulations), in regulation 9 (Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing), in paragraph (31) omit “vessel”.

(4) In Part 5 (amendment of multiannual plans and effort regimes), in regulation 14 (Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European eel), in paragraph (7)(c)(i) after “paragraph” insert “2”.

(5) In Part 6 (amendment of the data collection framework measures), in regulation 16 (Regulation (EU) 2017/1004 of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy)—

- (a) in paragraph (14)(b)(i) for “Member States” substitute “The Member State”; and
- (b) in paragraph (17)(a)(ii) for “Commission and the Member States concerned” substitute “Member States concerned and the Commission”.

(6) In Part 8 (amendment of the measures relating to the protection of vulnerable marine ecosystems in the deep seas and high seas), in regulation 26 (Council Regulation (EC) No 734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears)—

- (a) in paragraph (5)(b)(i) for “fishing” substitute “fisheries”; and
- (b) in paragraph (10)(a)(i) omit “special”.

(7) In Part 9 (amendment of the European Maritime and Fisheries Fund Regulations), in regulation 29 (Commission Delegated Regulation (EU) 2015/288 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the period of time and the dates for the inadmissibility of applications), in paragraph (9)(a) for “State” substitute “States”.

(8) In the Schedule omit point (e).

The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019

9.—(1) The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In Part 2 (amendment of the regional fisheries management organisations Regulations)—

- (a) omit regulations 3 and 4;
- (b) in regulation 5 (Regulation (EU) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries)—
 - (i) in paragraph (36)(a)(i) after “designated by it,” insert “to”, and
 - (ii) in paragraph (39)(b)(i) for “State” substitute “States”;
- (c) in regulation 7 (Regulation (EU) 2017/2107 of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT))—
 - (i) in paragraph (18)—
 - (aa) in sub-paragraph (b)(i) for “ICCA” substitute “ICCAT”, and
 - (bb) in sub-paragraph (d)(iii) for ““45” days” substitute ““45 days””,
 - (ii) in paragraph (23)(a)(iii) for “(ii)” substitute “(a)(ii)”,

(a) S.I. 2019/753.

- (iii) for paragraph (35) substitute—
“(35) In Article 38(5) omit the final sentence.”, and
- (iv) in paragraph (65)(c)(ii) omit “that”; and
- (d) in regulation 9 (Regulation (EU) No 640/2010 of the European Parliament and of the Council establishing a catch documentation programme for bluefin tuna *Thunnus thynnus*)—
 - (i) in paragraph (4)—
 - (aa) in sub-paragraph (a)(iii) for “Union” substitute “their”, and
 - (bb) in sub-paragraph (e)(ii) after ““catching vessel”” insert “in the first place it occurs,”, and
 - (ii) in paragraph (16)(a) for “States” substitute “State”.
- (3) In Part 3 (amendment of the technical conservation Regulations)—
 - (a) in regulation 12 (Commission Regulation (EC) No 517/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets), in paragraph (4)(c) for “authority” in the first place it occurs, substitute “authorities”; and
 - (b) in regulation 15 (Council Regulation (EC) No 520/2007 laying down technical measures for the conservation of certain stocks of highly migratory species)—
 - (i) in paragraph (6)(a)(ii)—
 - (aa) for “must” substitute “shall”, and
 - (bb) for “shall” substitute “must”,
 - (ii) after paragraph (6)(a)(ii) insert—
 - “(iia) in the words preceding point (a) for “Community” substitute “United Kingdom”,,” and
 - (iii) for paragraph (12) substitute—
“(12) In Article 19—
 - (a) in paragraph 1 for “Member States shall do their” substitute “A fisheries administration must do its”; and
 - (b) in paragraph 2 for “Member States shall” substitute “A fisheries administration must”.”.
- (4) In Part 4 (amendment of the north sea multiannual plan), in regulation 25 (Regulation (EU) 2018/973 of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea), in paragraph (8)(a)—
 - (a) for “designates” substitute “distributes”; and
 - (b) after “opportunities” insert “for use by fishing vessels”.

The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019

10.—(1) The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019(a) are amended as follows.

(2) In Part 2 (amendment of the discard plans), in regulation 3 (Commission Delegated Regulation (EU) 2018/2035 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2019-2021), in paragraph (9) omit paragraph (b).

(a) S.I. 2019/848.

(3) In Part 4 (amendment of the TAC and Quota Regulation), in regulation 6 (Council Regulation (EU) 2019/124 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters)—

- (a) in paragraph (10)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) in paragraph 1—
 - (i) for “It” in the first place it occurs, substitute “Until 1 April 2020 it”, and
 - (ii) for “Union” substitute “United Kingdom”,”,
 - (ii) in sub-paragraph (b)—
 - (aa) for paragraph (i) substitute—
 - “(i) in the wording before point (a)—
 - (aa) for “in January 2019 and from 1 April to 31 December 2019” substitute “until 1 February 2020”, and
 - (bb) for “Union” substitute “United Kingdom”,”, and
 - (bb) in paragraph (ii), at the end of sub-paragraph (ff) omit “and”,
 - (iii) in sub-paragraph (c), at the end of paragraph (ii) for the full stop substitute “; and”, and
 - (iv) after sub-paragraph (c) insert—
 - “(d) in paragraph 4(a) for “from 1 January to 31 March and from 1 November and to 31 December 2019” substitute “from 1 November 2019 to 1 April 2020”.”;
- (b) in paragraph (22) after “5 to 11” insert “of Chapter 3”;
- (c) in paragraph (24)(a) for “Non-target species” substitute “Fish species and names”; and
- (d) in paragraph (25)—
 - (i) in sub-paragraph (a) for “NON-TARGET SPECIES” substitute “FISH SPECIES AND NAMES”,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) omit the first and second paragraphs; and”, and
 - (iii) for sub-paragraph (c) substitute—
 - “(c) in the third paragraph omit the first and second sentences.”.

The Animals (Legislative Functions) (EU Exit) Regulations 2019

11.—(1) The Animals (Legislative Functions) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 6 (Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations)—

- (a) for paragraph (7)(g) substitute—
 - “(g) omit paragraph 8.”; and
- (b) omit paragraph (9).

George Eustice
Minister of State

At 2.00 p.m. on 7th October 2019

Department for Environment, Food and Rural Affairs

(a) S.I. 2019/588.

SCHEDULE REVOCATIONS

Regulation 2

The following legislation is revoked—

- (a) Regulation (EU) 2016/1139 of the European Parliament and of the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks;
- (b) Regulation (EU) 2019/473 of the European Parliament and of the Council on the European Fisheries Control Agency;
- (c) Regulation (EU) 2019/1022 of the European Parliament and of the Council establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (in particular under section 8(2)(a), (b), (d) and (g)) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to retained direct EU legislation in the field of the common fisheries policy of the European Union.

These Regulations also make minor amendments to a previous EU exit statutory instrument in the field of animal health and welfare (see regulation 11 which amends the Animals (Legislative Functions) (EU Exit) Regulations 2019 (S.I. 2019/588)). One amendment removes an erroneous provision in that instrument which has been identified as being in conflict with a similar amendment in a different EU exit instrument. The other removes a regulation-making power which is no longer considered necessary.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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